

**IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION**

YELLOWHAMMER FUND, on	)	
behalf of itself and its clients.	)	CASE NO. 2:23-cv-00450-MHT
	)	
Plaintiff,	)	CIVIL ACTION
	)	
v.	)	
	)	
ATTORNEY GENERAL OF	)	
ALABAMA STEVE MARSHALL,	)	
in his official capacity	)	
	)	
Defendant.	)	
	)	
WEST ALABAMA WOMEN'S	)	
CENTER, on behalf of themselves	)	
and their staff; et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
STEVE MARSHALL, in his official	)	
capacity as Alabama Attorney	)	
General,	)	
	)	
Defendant.	)	

**DECLARATION OF KELSEA MCLAIN IN SUPPORT OF PLAINTIFF'S  
MOTION FOR SUMMARY JUDGMENT**

I, KELSEA MCLAIN, hereby declare under penalty of perjury that the following statements are true and correct:

1. I am the Deputy Director of the Yellowhammer Fund, a nonprofit corporation based in Alabama. Yellowhammer Fund provides support to pregnant and parenting people in Alabama, Mississippi, and the Florida Panhandle.

2. As Deputy Director, I ensure that all of our current programs are run successfully and that our budgets are delivered to the Executive Director. I am also responsible for human resources at Yellowhammer Fund, including supporting staff and new hires, maintaining performance goals, and honoring our team's hard work.

3. Before becoming Deputy Director in July 2022, I served as the Healthcare Access Director at Yellowhammer Fund. In that role, I helped to ensure that pregnant Alabamians had the funding and logistical support they needed to access abortion care both within and outside of Alabama. I also provided support to residents of other states who traveled to Alabama for abortion care. This role was focused on addressing the pressing abortion care needs of our community.

4. In total, I have been with the Yellowhammer Fund for four years. I have devoted my career to advocating for access to reproductive health care across the South, and have worked or volunteered in Texas, Alabama, Florida, and North Carolina.

5. I provide the following testimony based on personal knowledge.

**Yellowhammer Fund's Abortion Fund Provided Critical Support to Pregnant People Seeking Abortion Care**

6. Before *Dobbs*, one of my core responsibilities at Yellowhammer Fund was to support our abortion fund. The abortion fund was founded in 2017 in order to meet

pregnant Alabamians' need for financial and logistical support to access abortion care. I helped oversee the fund, ensuring that we were meeting our mission of decreasing barriers to abortion care, raising awareness about the fund and its services, and constantly improving our services to be more responsive to the needs of our community.

7. I worked directly with abortion clinics and other abortion care providers to ensure that they were aware of our services. I regularly communicated with clinics and providers, as well as other abortion funds and advocacy groups, to spread awareness of the fund and collaboratively address the needs of our community members. In addition to providing funding for abortions, our abortion fund also helped pregnant people with other logistical and practical needs associated with abortion access. These needs range from transportation to childcare arrangements to lodging to food. Our fund also assisted patients by making referrals to abortion providers.

8. Yellowhammer Fund's abortion fund operated a telephone help line and text line that patients could contact if they needed financial and logistical assistance for their abortions. In addition, clinics and providers would sometimes call the line to notify us that a patient needed financial and logistical support. Most of the patients who called our phone line had been referred by clinics or individual providers. We also accepted referrals via email.

9. After a patient or provider contacted us, Yellowhammer Fund's abortion fund would determine the total cost of the abortion, as well as the logistical and practical

support needs of our callers. We made financial pledges directly to clinics to help cover the cost of the abortion. If we were not able to cover the total cost of an abortion, we worked with other abortion funds to fill the gap. We also referred callers from other states to abortion funds in their state to help ensure that their financial needs were met.

10. I served as a case manager and provided direct support to our individual callers. It was my role to ensure that our callers received the support they needed, communicate with them to ensure that they were able to access care, and provide any follow-up support. We were there to support clients for as long as they needed us to be there for them.

11. The services provided by Yellowhammer Fund's abortion fund were incredibly important for our community. Many of our callers struggled to make ends meet, and most were below the federal poverty level. The majority of callers were on Medicaid or were uninsured. Our callers had limited savings, and many were already parents of one or more children. Depending on the gestational age of their pregnancies, the cost of abortion could range from several hundred to tens of thousands of dollars. Without our support, many of our callers would have struggled to gather the necessary funds for their abortions, and some would have been forced to carry their pregnancies to term against their wishes. Our abortion fund helped to ease the stress of accessing abortion care for our callers while helping them make decisions for themselves and their families.

12. Clients would often verbalize other health needs, including concerns over the health of their pregnancy and potential outcomes should they be forced to carry a pregnancy to term. Clients often expressed that they needed an abortion to protect their health and their lives. They were also concerned about the lack of access to health care providers in Alabama to ensure a safe and healthy pregnancy.

13. Additionally, many of the abortion fund's clients struggled to address the other needs associated with accessing abortion care. The cost of abortion care is more than the cost of the procedure or medication itself. For example, our callers also needed help making childcare arrangements, and many needed help with transportation and lodging. Even while abortion was still legal in Alabama, the limited number of abortion clinics in the state meant that some of our callers had to travel long distances to reach the nearest clinic. The cost of travel, as well as the costs of lodging and food, were insurmountable for many callers. Our fund helped cover those costs while also supporting our callers with the many logistical decisions necessary for accessing care—including making hotel arrangements, purchasing bus and plane tickets, and providing funds and assistance for food and childcare.

14. Like the majority of abortion patients in Alabama before *Dobbs*, most of the abortion fund's callers were Black. Black pregnant people face the most severe barriers to accessing abortion care. Our abortion fund helped to ease these burdens by ensuring

that our callers could make individual reproductive decisions for themselves and their families, regardless of their income level.

15. Our callers were also all low-income. Alabama is the sixth poorest state in the country, and our callers did not have the funds necessary to pay for expensive abortion care in other states, let alone to travel and cover all of their logistical needs—including lodging and childcare.

16. Many of our callers already had children and decided to have an abortion in order to ensure that they had the resources they needed to parent their children and care for their family.

17. As a reproductive justice organization, Yellowhammer Fund strongly believes that every person has the right to have a child, the right not to have a child, and the right to parent the children they have in safe and healthy environments. Our abortion fund helped communicate that message by ensuring that the callers we served could access the care they decided was best for themselves and their families.

**Before the Attorney General's Threats, Yellowhammer Fund Intended to Continue Funding Out-of-State Abortions**

18. Even before the U.S. Supreme Court's decision in *Dobbs*, Yellowhammer Fund anticipated that, if *Roe v. Wade* were overturned, the abortion fund would play a critical role helping pregnant Alabamians travel to states where abortion care remained legal.

19. In preparation for the potential decision, our fund started to plan to ensure we would be ready to provide travel support in the event that abortion was criminalized in Alabama. Among other things, I began developing relationships with clinics in states where abortion care was likely to remain legal. I estimate that before *Dobbs*, between 15-20% of the callers our fund supported had to travel outside of the state for abortion care. We expected that number to rise to 100% after *Dobbs*. I developed a spreadsheet with information about clinics across the country that could serve pregnant Alabamians, in order to ensure that our fund was ready to act quickly by making referrals for our callers. I also began to develop systems, including referral and case management systems, that we could use to ensure that we could respond appropriately to an increase in demand for funds and support after *Dobbs*.

20. Additionally, I worked with my team to ensure that our budget could accommodate requests for support. We anticipated that the requests would increase and that the costs of travel and of abortion care would increase exponentially if abortion was banned in Alabama.

21. I also began to prepare for potential expansion of the abortion fund. Because we anticipated that many more callers would have to travel out of the state for abortions, I expected to hire more people to help me with case management, travel support, and other needs of our callers. We were beginning to have conversations about other ways we could expand our work, including transporting clients across state lines.

**Since the Attorney General's Threats, the Need for Yellowhammer Fund's  
Abortion Fund Has Only Grown**

22. After *Dobbs*, Alabama began enforcing a ban on abortion with few exceptions. Our fund temporarily stopped providing abortion funding and logistical support to pregnant Alabamians.

23. Soon after *Dobbs*, I learned that Attorney General Steve Marshall made threats to criminally prosecute abortion funds that provide support to Alabama residents who seek abortion care in states where it is legal. I learned that the attorney general made threats to prosecute funds for conspiracy or serving as an accessory to a violation of Alabama's abortion ban if they help provide financial and logistical support to Alabama residents traveling for out-of-state lawful abortion care. His comments specifically mentioned groups that work in Tuscaloosa, so I understood the threats to be directed towards us specifically. My general impression was that in the attorney general's statements, he described Yellowhammer Fund, our work, and our organization, without directly saying our name. We are the only group in Tuscaloosa doing this work that we are aware of, so his threats felt targeted directly at us.

24. These threats made me worried that I could be prosecuted for providing support through Yellowhammer Fund's abortion fund. I am also worried that my staff members and volunteers could be prosecuted if we provide funding and logistical support to help pregnant Alabamians access abortion care in states where it is lawful. We also feared that these threats would expose our clients to additional surveillance or that



their abortions would be implicated in any legal case brought against Yellowhammer Fund. These threats concerned us because we are always heavily focused on protecting our clients' privacy.

25. Because the attorney general's threats continue to make us fearful of prosecution, Yellowhammer Fund has not resumed providing funding and support through our abortion fund.

26. Even though our fund is no longer in operation, I continue to hear from pregnant Alabama residents who need financial and logistical support to access abortion care in other states where it is legal. Abortion is banned in Alabama, but it remains legal in other states in the country. Yellowhammer Fund's telephone help line receives between five and ten calls a week from people who are seeking support from the fund. We also still receive calls from clinics and providers who are trying to help patients find the resources they need to obtain an abortion. A significant portion of callers are later in their pregnancies because they have not been able to find support from other funds. For many callers, it feels like we are getting the phone call because we are their last hope, and these callers are at the end of the line trying to figure out resources for their abortions.

27. When Yellowhammer Fund receives those calls, our staff sends a response message to inform callers that we are no longer operating our abortion fund. Our message also tells callers that we cannot provide them with financial or practical support for an abortion in another state. We do not share information with patients about lawful

abortion care in other states because we are afraid that doing so could subject us to prosecution.

28. Now that abortion is illegal in Alabama, pregnant people in Alabama must travel several hundred miles to other states to access abortion care. It is no longer a matter of determining the nearest abortion clinic. Patients now have to consider a variety of factors when arranging abortion care: accessibility, if they know anyone who lives in the state they are traveling to, and availability of appointments, to name a few. Patients now commonly have to navigate air travel instead of arranging a car ride. The costs of travel, lodging, and other needs are very high.

29. Because Yellowhammer Fund is not able to provide support to pregnant Alabama residents, many of the people we would like to serve do not have the support they need. We know that some people who are not able to get funding or logistical support for out-of-state abortions are forced to carry their pregnancies to term. When we talk to people who reached out to us for funding, they sometimes tell us they were not able to get an abortion. We let these patients know they can reach out to Yellowhammer Fund for other support in their pregnancy and after giving birth. We are also hearing anecdotally from health care providers that some pregnant people report that they are carrying a pregnancy they would have otherwise terminated if they had been able to access abortion care.

30. There is heavy stigma and shame associated with parenting a child after not being able to obtain an abortion. The Defendant's threats harm pregnant Alabamians who are seeking lawful out-of-state abortion care because they isolate them from the supporters who can help them.

31. Many of the states surrounding Alabama ban or severely limit access to abortion. This includes Louisiana, Mississippi, North Carolina, South Carolina, Georgia, and Texas. As more states continue to restrict abortion care, the costs of traveling out-of-state for abortion care will continue to increase, making abortion increasingly inaccessible to many pregnant Alabamians.

32. I wish that the Yellowhammer Fund abortion fund could resume providing assistance to help meet Alabamians' significant need for financial and logistical support for abortions in other states, which has only grown since the attorney general's threats. Providing assistance to help pregnant Alabamians access abortion care in other states was an important way for me to send a message of dignity, love, and support to pregnant Alabamians. The abortion fund's services also helped to communicate the importance of bodily autonomy and every person's right to make decisions about their body. Funding abortion is not just about bridging the gaps but also about affirming the right to access abortion care and sending the message that getting an abortion shouldn't bankrupt people or ruin their lives. Funding abortion shows patients that unfair and unjust barriers to care should not impact how they feel about that care or their choice to obtain it.

33. If not for Attorney General Marshall's threats, I would be providing financial and practical support through Yellowhammer Fund's abortion fund. I would also be helping to advertise the services of the Yellowhammer Fund abortion fund, ensuring that pregnant Alabamians were aware of the fund and the availability of out-of-state abortion care, and overseeing a growing staff to meet the needs of pregnant Alabamians. Additionally, Yellowhammer Fund would be providing information about our services and our support of lawful out-of-state abortion care on our website and on social media. Yellowhammer Fund would be holding itself out as a funder and supporter of lawful abortion and helping as many pregnant Alabamians as our resources allowed.

34. Lastly, I am someone who has had abortions with the support of an abortion fund. This is why the restrictions in Alabama and the attorney general's threats have been so emotionally difficult for me: I have firsthand knowledge of how important abortion funds are for supporting pregnant people's dignity and autonomy. Abortion funds dismantle the stigma and shame people feel when they struggle to afford the necessary things in life. The amount of harm a person experiences when they cannot access abortion care is immeasurable and has a lifelong impact on people's families, happiness, health, and lives.

35. I declare under penalty of perjury that the foregoing is true and correct.

Executed on 08/14/2023

A handwritten signature in black ink, appearing to read 'Kelsea McLain', is written over a horizontal line.

Kelsea McLain